

Elissa Hutner  
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United States District Court  
Southern District of New York

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E. Lee,

Plaintiff,

07 Civ 10628 (WHP)

-against-

Answer

Heritage Health & Housing, Inc.,

Defendant.

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Defendant Heritage Health and Housing, Inc., by its attorney, Elissa Hutner, Attorney at Law, in answer to the Complaint alleges as follows:

1. Admits the allegations contained in paragraphs 1 through 8 of the Complaint.
2. Denies the allegations contained in paragraphs 9 through 11 of the Complaint.
3. Admits the allegations contained in paragraphs 12 through 14 of the Complaint.
4. Denies the allegations contained in paragraphs 15 through 16 of the Complaint.
5. Repeats and realleges each and every allegation contained in paragraphs 1 through 4 of the Answer.
6. Admits the allegation contained in paragraph 18 of the Complaint.
7. Denies the allegation contained in paragraph 19 of the Complaint.

AS AND FOR A FIRST DEFENSE

8. The Complaint Fails to State a Claim Under the Family and Medical Leave Act.

9. Plaintiff never advised Defendant that she suffered from “a serious medical condition.”
10. Plaintiff never suffered from “a serious medical condition” during her employment with Defendant.
11. Plaintiff never submitted documentation to Defendant that she suffered from “a serious medical condition,” nor that she required leave for more than three consecutive days.
12. Plaintiff was absent for fewer than three consecutive days during the absence for which Plaintiff claims protection under the Family and Medical Leave Act.
13. Since Plaintiff never requested, applied for or was placed on Family and Medical Leave, Plaintiff was not entitled to reinstatement to her former position when she returned from leave.
14. Defendant did not refuse to reinstate Plaintiff to her former position or an equivalent position.

AS AND FOR A SECOND DEFENSE

15. An intervening act made it unnecessary for Defendant to reinstate Plaintiff to Her former position upon Plaintiff’s return from leave.

AS AND FOR A THIRD DEFENSE

16. The Complaint Fails to State a Claim under the New York City Human Rights Law.
17. Plaintiff was not a disabled person within the meaning of the New York City human Rights Law.
18. Plaintiff never requested a reasonable accommodation.
19. In any event, defendant offered Plaintiff a reasonable accommodation to another position with less responsibility since Plaintiff was unable to meet the responsibilities of her current position.

WHEREFORE, Defendant demands judgment in its favor together with reasonable attorneys’ fees.

Dated: New York, NY  
December 24, 2007

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Elissa Hutner (EH 7629)

Attorney for Defendant  
201 West 85<sup>th</sup> Street  
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